

Exhibit D

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

INCOM CORPORATION,
Plaintiff

v.

RADIANT RFID, LLC,
Defendant.

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CIV. ACTION NO. 1:17-cv-00009-LY

AGREED SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following scheduling order.

IT IS ORDERED THAT:

1. Any party asserting claims of patent infringement must serve, but not file, a post-Markman disclosure of asserted claims from among the claims asserted by such party in its preliminary infringement contentions by December 14, 2018.
2. The parties shall file all amended or supplemental pleadings and shall join additional parties on or before January 25, 2018.
3. Mediation shall occur on or before February 8, 2019.
4. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed on or before February 15, 2019.

5. Any party asserting claims of patent infringement must serve, but not file, final infringement contentions on or before April 24, 2019.

6. Any party asserting claims of patent invalidity must serve, but not file, final invalidity contentions on or before June 24, 2019.

7. Any fact discovery shall be completed by July 26, 2019. Any fact discovery requests must be propounded so that the responses are due by this date. Counsel may, by agreement, continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery. Parties with the burden of proof shall designate Expert Witnesses and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before August 23, 2019.

8. Parties shall designate Rebuttal Expert Witnesses on issues for which the parties do not bear the burden of proof, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before September 30, 2019.

9. Expert discovery shall be completed by October 30, 2019. Any objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than 30 days of

receipt of the written report of the expert's proposed testimony or not later than 30 days of the expert's deposition, if a deposition is taken, whichever is later. **The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702.**

10. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before July 31, 2019, and each opposing party shall respond, in writing, on or before August 7, 2019. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.

11. All dispositive motions shall be filed and served on all other parties on or before November 13, 2019 and shall be limited to 20 pages. Responses shall be filed and served on all other parties not later than 14 days after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 14 days after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.

12. The parties shall meet and confer to determine pre-trial deadlines,

including, *inter alia*, exchange of exhibit lists, designations of and objections to deposition testimony, and exchange of demonstratives on or before November 20, 2019.

13. The parties shall exchange a proposed jury charge and questions for the jury, and exchange draft Motions in Limine to determine which may be agreed on or before December 2, 2019.

14. The parties shall exchange any objections to the proposed jury charge, with supporting explanation and citation of controlling law and shall submit to the Court their Motions in Limine by December 6, 2019.

15. The parties shall submit to the Court their Joint Pre-Trial Order, including the identification of issues to be tried, identification of witnesses, trial schedule provisions, and all other pertinent information, and shall also submit to the Court their oppositions to Motions in Limine by December 20, 2019.

The parties shall not complete the following paragraph 12. It will be completed by the Court at the initial pretrial conference to be scheduled by the Court.

16. This case is set for final pretrial conference, in chambers, on the ____ day of _____, 20____, at _____ and _____ trial in the month of _____ 20_____.

The final pretrial conference shall be attended by at least one of the attorneys who

will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.

SIGNED this ____ day of _____, 20____.

LEE YEAKEL
UNITED STATES DISTRICT JUDGE